

## EAST BETHEL CITY COUNCIL MEETING

January 8, 2014

The East Bethel City Council met on January 8, 2014 at 7:30 PM for their regular meeting at City Hall.

MEMBERS PRESENT:        Bob DeRoche                Ron Koller                Richard Lawrence  
                                 Heidi Moegerle            Tom Ronning

ALSO PRESENT:            Jack Davis, City Administrator  
                                 Mark Vierling, City Attorney

Call to Order        **The January 8 2014 City Council meeting was called to order by Mayor Lawrence at 7:30 PM.**

Adopt                **Lawrence made a motion to adopt the January 8, 2014 City Council agenda with the**  
Agenda                **addition of the supplemental payment list. Moegerle seconded; all in favor, motion**  
                                 **carries.**

Public Forum        Lawrence opened the Public Forum. He explained that the Public Forum is for items that are  
                                 not on the agenda. If you have an item that is on the agenda, you will have to ask the person  
                                 that is presiding over that item at that time to allow you to speak. So we have John  
                                 Kysylyczyn.

John Kysylyczyn, "I am with the Anoka County Record. The legal newspaper is on your agenda at a later time, so would it be more appropriate to wait until then to speak? I would ask how you want to proceed?" Lawrence, "You will probably get better input if you wait." Kysylyczyn, "Okay, then I will do that."

Lawrence, "Harley Hanson, is this about the residency issue?" Harley Hanson, of "Actually it is about Happy New Year to these guys, okay? I do have a couple questions about things that have happened in past year or so. We had a branding name started with about a year or so ago. Where did that issue go?" Lawrence, "We really haven't fully developed that. It is with the EDA and that issue is still being worked on." Moegerle, "It is kind of at the bottom of the pile where there are other higher priorities than that." Hanson, "I am looking for the money aspect of this. How much money did we put up for this?" Lawrence, "Heidi, do you have that number?" Moegerle, "I don't think we put out money out for this. Are you talking about Ady Voltedge?" Hanson, "Yes." Lawrence, "What did we spend on Ady Voltedge?" Davis, "Approximately \$48,000."

Hanson, "I am trying to build a profit and expense column. I know we had some bad Council and administrators from the years past, but, how about the EDA. How much money did we put out for that?" Moegerle, "Since when?" Davis, "Last year's budget was \$133,000." Hanson, "And what column do we put that in, expenses or profit?" Davis, "Everything is related to an expense." Hanson, "I am looking for accountability for the City. We don't have money for Booster Days as I have heard yet. And I have had to, in the last couple years, go hunt for someone to sponsor it, which shouldn't happen."

Hanson, "And then the parks thing that was involved. I think I read that we have 300 acres to mow a week?" Davis, "That includes also public right-of-ways (ROW) on streets. Parks is about 1/2 of that." Hanson, "Okay, because I cut a little grass myself and I think we have

16 parks and I wondering if there is a legitimate answer for that. Because in our times that we can't do some things and we are having a little problem with money." Lawrence, "Some of the parks are being let to go back to more of a natural type of system because they are not being used. And we are tracking how much they are being used by how much trash is being left at the park. If we dump it once a year, it just isn't being used. So, those are being allowed to divert back to natural. Heidi, do you have more on that?" Hanson, "You can see where I am going with the 300 acres a week to cut. I was a farm boy; I know what 300 acres is to cut. I couldn't do it in a year. There is a trip to the parks to do. And, I am trying to put it in a profit and expense. And I don't know how many people occupy the parks and I think some of this information should come out."

"I will move on. This one hurts me. On January 2<sup>nd</sup>, on the corner of Highway 65 and 221<sup>st</sup> we had four Anoka County dump trucks, four pickups, one motor grader, one wheel loader with a blower, one bobcat and some flagman, all to remove that little bit of snow that we complained about a year or two ago. I am uncomfortable, because I think as a City we dropped the ball because we had a petition and most of the reason for the petition was where are we going to put the snow? And you say, "That is a county problem." Well, that is my tax dollars too. We have to run this place like a little business. And, I have put in my two minutes. I would like to put this on file that I am putting a little complaint on spending and it mostly bothers me because we don't have money for Booster Days. And, I am not going to put my own money in for that."

Lawrence, "Is there any feedback?" There was none.

Lawrence, "We have Dan Butler and he wants to talk about the residency issue. You want to wait until it is on the agenda?" Mr. Butler indicated that would be acceptable.

There were no additional comments so the Public Forum was closed.

Mayor's  
Residency  
Determination

Lawrence, "At this time, I am going to have Heidi take over as Acting Mayor to reside over that proceeding."

Davis, "The question of the residency of Mayor Lawrence was discussed in lengthy detail at the December 18, 2013 City Council meeting. There was no resolution on this subject and the matter was tabled until January 8, 2014. At this time I would like the City Attorney to describe the process that this matter could be reconsidered should the Council choose to do so?"

Mark Vierling, City Attorney, "As a result of the actions taken at the December 18, 2013 City Council meeting, which were basically two motions on either side of the issue, both of which failed, and then a motion to table until this evening, for this matter to be before this Council the proper procedure at this time would be for either one of the Council people on the side of the prevailing issue, which is those that succeeded in the motion that failed to bring a motion to reconsider the matter if either of them wishes to do so. Once that motion is made and seconded, the motion to reconsider would be debatable and then a vote is taken. If a vote is taken and on a motion to reconsider that passes, the item to be reconsidered immediately comes on the table and then would be subject to a vote."

"So, for example, (not picking either side of the issue) last meeting Council Member Moegerle made a motion to declare the Mayor did have proper residency in the City (and I am paraphrasing) and Council Member Koller seconded, that motion failed. If there is a

motion to reconsider on that motion, it would have to be made by Council Members Ronning or DeRoche, because they technically prevailed on that issue. If they make a motion to do that and the motion passes, after debate, then the Moegerle motion would immediately come on the table for vote. The same would be true of the other motion made by Council Member DeRoche at that time, seconded by Council Member Ronning to declare a vacancy in the seat of the Mayor. That is the process we will follow for this evening. If for any reason it does not get resolved this evening then we can certainly take a look at other protocols that will have to be addressed to address the issue as we go forward.”

Moegerle, “Mr. Butler, we will hear from you before we start.”

Dan Butler of 20332 Austin Street NE, “I just want to urge the Council to bring the motions up so this issue gets resolved tonight. Whatever side it prevailed on, how the attorney laid it out to look at it tonight, I urge you to bring it up. Thank you.”

Pat Schwartswald of 4516 Fawn Lake Drive NE, “I wasn’t at the December 18<sup>th</sup> meeting. Could you clarify the two Council Members that motioned it and seconded it, when it was declared residency in the City of East Bethel?” Moegerle, “Are you asking the ones that challenged or supported residency?” Schwartswald, “The ones that supported.” Moegerle, “And your question is why?” Schwartswald, “I would like to know, does he still live in East Bethel?” Moegerle, “Um, the question is intent and contacts within the City of East Bethel. The question is currently he is not sleeping in East Bethel, he still has (I am sure he will discuss this), but on December 18 he indicated that he has a mobile home he will be living in when the weather clears and he still has a post office box in East Bethel, and those kinds of things. So we are trying to determine is that significant intent and contacts for him to be a resident due to his current circumstances.” Schwartswald, “But you do have a residency, you are living in East Bethel?” Lawrence, “East Bethel, yes.”

**Koller made a motion to reconsider the motion by Council Member DeRoche to declare a vacancy of the Mayors seat. DeRoche seconded.**

DeRoche, “There was a rather intense debate on December 18<sup>th</sup>. If anyone has watched the meeting, there was a lot of emotion and there was fact. Since that time I have been accused of spearheading and putting a bull’s-eye on Richard and all kinds of other things. But, as all of the Council Members know up here, if this information comes to them about whether someone up here lives here or not, it is their obligation to bring it up. And that is exactly what I did on the 18<sup>th</sup>; I didn’t accuse anybody or anything. I brought it up, are you a resident or aren’t you. And from there the conversation got pretty blown out of proportion, there was a lot of emotion, a lot of innuendoes, whatever. But, the fact of the matter is, does he live here? I have done a lot of research and looked it up and a post office box does not qualify as a resident.”

“One thing I did do is I watched the St. Francis City Council meeting from December 2, 2013. For those of you that haven’t seen that, it dealt with the same situation, only it was a Council person. He was renting a room in St. Francis, but spending all his time in Zimmerman. When that came before Council one of the first things I noticed is it wasn’t contentious, there wasn’t yelling and screaming, it was very fact based, do you live there, do you live here, what is going on here. End of the story the gentleman resigned. Because it was determined that according to Minnesota Statute and the League of Minnesota Cities that once you leave the residence in the City, County or State, that the seat is to be vacated. Now, there are four people up here that have to make this decision. To be honest with you,

it is probably the hardest thing I have done since I have been in office. Because Richard, Heidi and I all came in at the same time. And there have been a lot of issues that have gone on. My problem is I am honest and upfront. I have had more e-mails in the last three weeks than I have had in three years time. One of the first questions I am asked is, "Why were you the one to bring it up? Why didn't anyone else bring it up?" Good question and up until I received an e-mail back from Richard, I didn't know, maybe he still does."

Moegerle, "Can we get to the substance of the allegations?" DeRoche, "There are no allegations here Heidi. Just let me talk, you will have your chance." Moegerle, "This isn't about the history, this is about the facts. We are here on the issue of residency. You have gone over the history of December 18<sup>th</sup>. Can we talk about the facts of the allegations?" DeRoche, "This is the problem, you like to convolute things. There are some people here that maybe they weren't here 18<sup>th</sup> and maybe they don't have the facts." Ronning, "I personally would like to support that there is reason to have a relevant conversation to support. Because not everyone has been involved with things and hopefully this answers some of their questions about these things. Pardon me for interrupting, but, I think you should allow this." DeRoche, "Seeing how it is getting a little heated already, I will cut it short. In my mind it doesn't meet the residency."

Moegerle, "Mark, since we are talking about history, can you go over the history with regard to contacts with the City. I think that there were issues of intent and what are the other issues that we will need to consider under the law with regards to issues of residency?"

Vierling, "As I indicated last time in the memo we sent to the Council, residency is a fact driven issue. Certainly everyone understands and expects physical presence within the community in terms of living status. There are however, times and occasions where a Council Member in an elected office for a brief or interim time cannot live in the area because of something that prevents that. The law does allow an analysis if they intend to live in the community, whether or not their residency; their physical presence has been interrupted by some force beyond their means. And, what contacts do they have in the community to make it credible that they both intend to reside there and intend to return within short order. These are facts the Council has to weigh. The Council is the final arbiter of its qualifications and to determine residency relative to its members. And it is a fact driven issue that the Council needs to review."

Moegerle, "In regards to Minnesota Statute 200.03 Determination of Residence, how does that apply to this situation?" Vierling, "That deals with the voting aspects of it. The Supreme Court has already ruled on that issue in terms of it certainly is relevant in terms of determining voting qualifications in the state. They specifically called out 23 and 231 to determine that although there are some factors that the Council may want to consider in that. The legislator did not establish either of those statutes as authority to determine residency of an elected official. Had they wished to do so, they would have certainly done so. They may be reviewed, but they are not determinative, nor are they binding on the issue of residency of an elected official."

Moegerle, "Because I noted that in subsection b. it says, "An individual does not lose residency if the individual leaves home to live temporarily in another state or precinct. So that would seem to apply." Vierling, "Those are voting statutes. And quite frankly, the decisions of the Supreme Court go back to early 2000's and residence of elected officials is something that probably the legislature has wanted to stay away from." Moegerle, "I can imagine. Richard, do you have any responses?"

Lawrence, “Yes, Bob mentioned why did he bring it forward. If he had done what he was supposed to be done when I gave him the information he was supposed to give it to Jack and Jack would have put it on the agenda. That is the route that we are supposed to be doing instead of just bringing it on in. That way we can clearly get all the information before we make a comment or question. But, as regards to I looked up some of the statutes from the Supreme Court and I didn’t find much that talked about residency that discussion, I couldn’t find what you had sent me on the link. I do have some paperwork for you. This statute is the statute that Heidi was referring to, or one of the ones, the other one. Are we discussing residency, or occupancy? Those are two completely separate items and I don’t see any correlation on the two. Residency comes up when people are (I can’t recall exactly and I can’t see it very well and I left my glasses in the house or maybe in the car). I have another one for you and this is the one that Heidi was referring to and the important part of this one is this is the one that Mark said is voting residency. However, it talks about being a resident; it doesn’t say whether you are a Mayor or whatever. And when we read this it talks about the intent to return. And, so far I have been Mayor for three years, and I continue to do the job as Mayor. In fact, I get calls every now and then from different people. And I respond to their needs. In fact, I have one for you Jack. I got a call about why we are plowing a dead end road with no houses on it; I will talk to you Jack about it later. So doing the job of Mayor is something we are continuing on. It is something the City is not losing any aspect of the requirements, the meetings are attended, and these are things that are required of the Mayor and being done.”

“One more final handout I have is the license application change. I was told I have to get that taken care of which I did. It states I am a resident of the City of East Bethel. Therefore there are some of the issues that were brought up were, a Mayor that is not in the City, when is he going to return or is he going to return. As any elected official, that would be the question. Facts are I am not really gone. I am out of the City, but if Jack calls I can be here in 15 to 20 minutes tops (if I can get away from work). I do work, but those are issues we work around. I am doing the job required of Mayor. With that in mind, I don’t know how much more you need for residency of someone that is willing to do the job and also doing the job as required of the Mayor. I never stopped doing the job. The fact that I have established residency, I have changed my driver’s license, it would be illegal to do that if I didn’t live there. You can’t dispute that. Some of the issues I have brought forward, all fact based from the City. Oh, there is one more. I got a message from Burt Black, Minnesota Secretary of State’s Office and I told him my questions and I told him my questions. He said they would not get involved in that question, but he did cite the exact same statutes that we have listed as far as residency proof. And since part of the proof of residency is intent to return, I have established that and part of residency is being able to do the job and I have established that.”

Moegerle, “I have some questions on these documents you have provided. We talked about 200.31b which is an individual does not lose residence if they leave temporarily. Have you ever intended to make your home anywhere else other than East Bethel?” Lawrence, “No, you are stuck with me.” Moegerle, “Sub. f. says Except as Otherwise Provided. An individual is located in the precinct where the individual’s family lives, unless the individual’s family lives in a precinct only temporarily. Where are you living and is that permanent or temporary?” Lawrence, “It is temporary.” Moegerle, “How long is temporary?” DeRoche, “This is kind of like a trial.” Lawrence, “If we were discussing this two months from now, we wouldn’t be discussing anything because I would be living in the City. That is why we need to take care of it now.” Moegerle, “It says in h. The residence of

a single individual is in the precinct where a single individual lives and usually sleeps. That sort of counteracts what you are saying. However, i. says, The mere intention to acquire a new residence is not sufficient unless the individual moves to that location. Moving to a new location is not sufficient to acquire a new residence unless the individual intends to remain there. So we get back to the intention again. And then you have given us this document, (which I have seen for the first time today) from Mr. Black. It says that if a person moves temporarily from a location from which they will return at a definite time, retains their residence for voting purposes at the prior address from which they are temporarily absent. The temporary address at another location does not confer residency if such a definite term is contemplated.”

DeRoche, “For the record, Richard you made the comment that when I received the e-mail that I should have e-mailed it to Jack so I could get it put on the agenda. And, that is exactly what happened. I was told you were going to address this at the beginning of the last meeting, when the agenda was going to be adopted. And we had the Pledge of Allegiance, and then when the Agenda was going to be adopted I said, “No we need to address this because this question has to be on here.” So if you are going to be stating things, state facts.” Lawrence, “I did state fact; it was supposed to be on the agenda. I talked to Jack; it was supposed to be on the beginning of the agenda, first thing.” Moegerle, “Do you want to respond Jack?” Jack Davis, City Administrator, “Richard and I had a conversation. This came out after the agenda had already been sent out. And I recommended that he add this as an agenda item and get out in front of this issue. It was too late to get it on the last agenda, but it was recommended that it be added to the agenda that is why it wasn’t included in the packet.”

DeRoche, “Next question I have is this license change is date December 31<sup>st</sup>. Part of the problem I have is it is kind of a deception thing. That is the problem here when facts are coming out, people get upset and at the last meeting, this hadn’t been done?” Lawrence, “It is done now and it is legal, correct? Sharon, has your license been changed?” Sharon Lawrence, “Yes.” Lawrence, “Have you received it?” Sharon Lawrence, “I haven’t gone over there to pick it up yet.” Lawrence, “She has already put hers in and is waiting to get it back.” DeRoche, “That wasn’t my question. Back last February, you knew your residence may change.” Lawrence, “No.” DeRoche, “Someone sent it to me that it was posted in the Anoka County Union that there was a sheriff’s sale on your home, it was in there twice.” Lawrence, “Right that does not mean you are losing your home.” DeRoche, “Absolutely. It does mean the possibility was there. My question to you even after the e-mail was, why all this time and until I brought the question up, and I am the bad guy. When we find something out, we are supposed to bring it up. Because I am doing what I am supposed to do. No one had made any accusations. My question was why didn’t this come forward sooner and now that I brought it forward, I put a bulls-eye on you. And, I was told you were a snowbird, yes there are people that live in East Bethel and they travel out of state and they are snowbirds, but they don’t hold public office. I told people why didn’t this come forward sooner. There are people that live here and travel out of state but they don’t hold office. When did you intend on telling people that you were living in Isanti, if ever.”

Lawrence, “Jack and I had just discussed it. I looked for it to be on the agenda, it wasn’t on the first part, but, Jack and I had gone over it. The attorney had gone over it with Jack. And it was being brought up.” DeRoche, “In December Richard.” Lawrence, “What did I do before that?” DeRoche, “I have no idea Richard.” Lawrence, “I was in the hospital with heart surgery.” DeRoche, “Everything has been put that this happened after your heart surgery. I don’t agree with that and I am not going to go into your personal life. But

somebody must have because it was in the paper and they didn't get that from me. There are four people up here that are going to decide this. In my mind I would have resigned. If I didn't live here, I would have resigned." Lawrence, "I do live here Bob, I have a residence."

Moegerle, "Here is the question I have, I understand your point, it is occupancy and where is he sleeping. We have heard time and again from our attorney that there is intent to return. What we have is he has the trailer over at Joyce's as Sharon stated. And, as Mr. Koller stated at the last meeting, he has a friend, that has lived in a trailer for ten years and that is his residence. If that is his intention and it has always been to be an East Bethel resident, then what is there to disclose since intent is such a large portion of determining residency?" DeRoche, "Are you asking me that question?" Moegerle, "Yes, I am." DeRoche, "To me having an RV in a park doesn't necessarily mean that is where you intend to live. What it means is I may go there and stay a couple weekends." Moegerle, "So you are saying when he says I will be living there that is not believable and trustworthy?" DeRoche, "What he said if you go back to the minutes was he was going to live where he is until March and then stay in the RV Park until October. It doesn't open until May. And, let's get back to intent, it is in the minutes and in the e-mail that when I asked about his residency he said, "I have looked around and I can't find anything under \$2,000 a month and I am not going to pay that. Out of curiosity, I along with some other people went on Craigslist and for rent in East Bethel a beautiful three bedroom home, big shop, \$1,350 a month. Along with two other ones. And if you go out you will still find it. In my mind, when someone says I am not a resident and I am not looking around, to me that says they are not coming here. Moegerle, "At some point he had to move out of his house. Were those houses on Craigslist listed back when he was moving now, were they listed back then? Because I don't know what that date is when he had to be out, I don't know if we even know that date."

Ronning, "One thing that didn't come out as far as intent, if you had a home fire and it is not occupiable, and you intend to rebuild that is a definable intent." Vierling, "That was the example I gave." Ronning, "We had a discussion about people living in RVs and they are living in RVs. The intent piece got a little too much attention. What we are directed to do is look at what the law says. It says doesn't say intent, it says inhabit. It doesn't say residence, it says inhabit only." Moegerle, "Where are you looking at?" Ronning, "The 2013 Minnesota Statutes 351.02 the incumbent's ceasing to be an inhabitant of the state, or, if the office is local, of the district, county or city for which the incumbent was elected or appointed, or within which the duties of the office are required to be discharged. I was curious to see what the history of this was. And to my knowledge this law was enacted April 18, 1905, to be effective March 1, 1906. And the requirement was, him ceasing to be an inhabitant of the state, or if the office is local, of the district, county or city for which the incumbent was elected or appointed, or within which the duties of the office are required to be discharged. That is the eligibility. It was also in 1927 legislature, also in the 1940 or 1947, 1971, 1973, 1986, the only change throughout that time was the gender portion was removed. And the defining factor is going to be inhabitant. I agree with Bob, this is not easy. Richard, and Bob and Heidi came in here to try and fix things and things were damaged too much before they go here."

Ronning, "But, the fact remains, if this question had not came up at the last meeting, none of this would have been talked about now. I asked Richard, would you have brought this forward?" Lawrence, "Yes, I would have brought this forward." Ronning, "How many months didn't you? Your surgery was September 5<sup>th</sup>." Lawrence, "Recovery is three months." Ronning, "I know after surgery you can pick up the phone and dial? If you are claiming disability, what is the disability? You were at the meeting in October, the first

meeting and the second meeting and the one after that, correct?" Lawrence, "I don't know, I would have to look." Ronning, "These guys came in to do a good job. I don't personally think Richard has a nasty bone in his body. I do think that we don't have the freedom to look at options. I do think the legislature enacted a particular condition that it is an inhabitant. If we change that, we are changing the law and none of us have that authority."

Moegerle, "I have a follow-up, Bob brought this up at the last meeting, the issue of precedent. This is the analogy of the snowbird. We have an appointed resident that is a snowbird, currently in Florida. When he applied for his position, he indicated he was a snowbird, would always be gone from December to May. He is not sleeping here, he is not occupying East Bethel. So, how does what you are proposing apply to Richard, apply to his position? Because he is not occupying, he has an intent to return." Ronning, "Is he an elected person?" Moegerle, "He is an appointed person." Ronning, "The answer is no. The law deals with elected persons inhabiting." Moegerle, "But why would there be a difference for an appointed person?" Ronning, "You will have to find it in the law." Moegerle, "We already know the law is vague." Ronning, "It is not vague, there is nothing vague about it." Lawrence, "The law also talks about inhabitants and residents. Mr. Vierling talks about a house fire and intent to return. It is kind of an embellishment on his part to be stating that would be the only reason why you would do that. The law just says what intent to return is, it isn't any reason why you left."

Moegerle, "Mr. Butler has been very patient." Dan Butler, "I showed this Affidavit of Publication of Postponement of Foreclosure to the City Attorney, Mark Vierling. It is a record that I pulled from the Anoka County Records. I ask that the City Attorney verify that this would be the format that they would reproduce that for someone." Vierling, "Yes." Butler, "And what it states is on January 16, 2013. Basically it states that you and Sharon were willing to, well, will you read it Mr. Vierling?" Vierling, "The document I have been handed is a Affidavit of Postponement of Foreclosure, self-drafted by Sharon Lawrence, notarized by Melissa Tomes. Paragraph 3, which refers back to the owners, Mr. and Mrs. Lawrence and that they have elected to shorten any redemption period from any foreclosure sale of the property into five weeks in exchange for the postponement of the foreclosure sale for five months. It is signed by Richard and Sharon Lawrence on January 16, 2013."

Butler, "So, I know that intent is part of this conversation, versus where you actually live. But, if you intended to resign in the City of East Bethel, you had from January 16, 2013 to whenever in order to secure that residence in East Bethel. I, like Bob, went on Craigslist and found a reasonable place in East Bethel for \$750, one bedroom, one bathroom is available as of January 6<sup>th</sup>. The intent part of this is open to conjecture by everybody. And if you want to review that document, you can certainly go to the county courthouse and get it."

Lawrence, "Can you tell me when the sheriff's sale actually happened?" Butler, "Can you? Tell me." Lawrence, "I am not sure?" Butler, "August 30<sup>th</sup>." Lawrence, "And why was that so long from January to August?" Butler, "I have no idea, you would have to talk to the bank." Lawrence, "Because the bank kept saying, let's do that, let's do this." Butler, "I am not here to discuss that." Lawrence, "You are making a statement saying that it's a done deal back in January when it is not true." Butler, "I didn't sign that document Richard, you did. I don't know if that is your signature or not." Lawrence, "You are not listening to what I said, if the actual foreclosure wasn't until when? August 30<sup>th</sup>, that is a long time from August to January. You made the perception that it was done in January."

Butler, "You knew the foreclosure was coming down the road based on what you signed on

January 16<sup>th</sup>.” Lawrence, “No.” Butler, “If you did, you didn’t.” Lawrence, “The bank kept saying they were going to resolve the issue.” Butler, “But you asked for a five week extension on a shortened redemption?” Lawrence, “Well, if you have never been through the process you probably wouldn’t understand it.” Butler, “I understand a lot, I am a business man, I am a homeowner in East Bethel. I have lived here for over 18 years.” Lawrence, “Have you been through foreclosure?” Butler, “I have not.” Lawrence, “Well then you wouldn’t understand. Because they keep saying, let’s do this and let’s do that. And they never do it. They say they are doing it and you get a date all set up and they never show up. They turn around and say, “No, we have changed our mind.”

Butler, “The contingency on your intent was to not reside here? Or to reside here?” Lawrence, “I reside here. I have residency. You may not appreciate or like where I live but that is not a requirement to be Mayor, to like where I live.” Butler, “These are fact based issues that the attorney said we needed to decide on so I will leave it at that.” Moegerle, “I would like to ask a question. Has anybody got any documentation from Craigslist that there were homes available at the relevant time period?” Butler, “You can go on Craigslist right now.” Moegerle, “Not now, but when he was looking to move. I understand now there is, but what about when he was looking to move?” Butler, “If he would have established residency between the 18<sup>th</sup> of December and the 8<sup>th</sup> of January, this would be a moot point. Correct Councilor?” Moegerle, “Is it free to move, or is there a cost to move?” Butler, “If your intent is you don’t have the money and you can’t live in East Bethel based on your economic circumstances, regardless of how much you might want to live here. I might want to quit smoking cigarettes tomorrow, but I just bought three cartons, what is my intent.”

Ronning, “I wasn’t done. This driver’s license thing. At the last meeting, I asked about your driver’s license and Richard said that Sharon had done hers already and he was going to do his. I don’t think you had enough time. And nobody except God and Richard have the luxury of knowing what is in his mind. But, we are expected to obey the law. There is no intent mentioned in the law. The intent example that was given was a Supreme Court decision. I went back and read it and the guy in question had moved his residency into a district to be eligible to run. The people occupying the apartment didn’t leave at the time, so he couldn’t occupy that place. However, he did occupy a different room in the building, he received mail in the building and he physically resided there. That is completely different. When we look at residency for snowbird that is where they live, not where they can’t live. I didn’t expect it to be this easy. I am still obligated to the law.” Moegerle, “Richard did you file a temporary change of address form?” Lawrence, “I don’t know, Sharon?” Ronning, “Could you explain what the address is and where?” Lawrence, “It is on the sheet there.” Ronning, “Do you know the address Jack?” Davis, “It is 4126 Viking Boulevard NE.”

Brian Bezanson of 22337 Quincy Street NE, “I pulled my tablet out of my pocket and logged on to Craigslist and they only have ads on there for so long and the last ad was for the 26<sup>th</sup> of November. What I would like to say is not fact it is strictly opinion. You all know I spent two terms up there. And it is hard, and I respect Bob for bringing this up, kudos to you. The thing is, you are required by your duty and obligation to the people to respond to at a higher level of ethics than the average citizen would. Just like in my mind, the employees here have to act with a higher level of conscious and accountability. As a superintendent for a contractor, I could take the bobcat home and grade my driveway. If an East Bethel employee takes it home and grades his driveway that is not acceptable. That is about as clear of an example I can make from an employee standpoint. To me it is about public trust. The public loses their trust in you as individuals. You have failed us.”

Ronning, "I was asking specifically about the address. Where is the address and when was the last time you were in it?" Lawrence, "Here you go, you got a copy of that earlier." Ronning, "Yes, but where is it? Can't you explain where it is?" Lawrence, "It is right near the boat launch on Coon Lake." DeRoche, "Right near Breezy Point. It is Norquist Campground." Ronning, "Have you been in there since the snow?" Lawrence, "No." Ronning, "And that goes back to when?" Lawrence, "Well when did we get snow?" Ronning, "I am not certain. The point is." Lawrence, "The point is if we were discussing this in two months, we wouldn't be discussing this." DeRoche, "Can I call the question?" Moegerle, "I have a few more points, but, I think we are getting there. Mark, Mr. Ronning has said the law says nothing about intent. Is that true? I thought I heard you discussing intent." Vierling, "It is a factor." Moegerle, "And that is a part of the law?" Vierling, "In my opinion, yes, it is."

Moegerle, "Ron, questions?" Koller, "I am the one that at the last meeting brought up the snowbird issue. I have a friend that lives year-round in a camper. His camper is completely winterized and it has water and sewer and he lives in it year-round. It is livable. Most campgrounds open in May and close in October. So, next winter you will have to move out again." Lawrence, "Just because they don't open until May doesn't mean we can't get in." Koller, "Do you have running water to your camper?" Lawrence, "I don't need to. I have, well I can't count the number of friends that have a camper up in Pathfinder Village that have no running water and no sewer service whatsoever. They have navigated just fine." Koller, "They have community bathrooms there." Lawrence, "I do have a bathroom there, it isn't much, but it is a bathroom." Moegerle, "What happens next October when it gets cold, what is your intent? I am looking for a plan." Lawrence, "I don't have a plan. Worse case we move out and wait for it to get warm. These places these gentleman have found, that is great. But the first thing I would ask is what is the heating bill. If you are looking at rent at \$400, but then the heating bill is \$500 that is too much. And, they get mad if you don't pay the utilities. So my question is what do the utilities cost that is all part of the bill. You can't just rent and not pay the utilities, they get real upset." Ronning, "I speak to what was in anyone's mind, but it is reasonable to think that they were responding to, "I am not going to pay \$2,000 a month. \$750 and \$500 heat wouldn't be \$2,000, it would be \$1,250." Lawrence, "We don't even know if it is in East Bethel. I know, you click on these and they say they are in East Bethel but then they are in Ham Lake or other places." Ronning, "So if they are closed in October, that is going to be October, November, December, January, February, March, April and May, that is seven months of no residence. And five months of being in there." Lawrence, "You didn't listen to what I said." Ronning, "You said you didn't go in when the snow was on the ground. Is the gate locked?" Lawrence, "I can get in." DeRoche, "This is becoming redundant, and that is why I called the question. I would request this young lady be allowed to speak and then we call the question."

Kathy Coval of 4482 Fawn Lake Road NE, "I am a taxpayer and I have lived in the City since 1999. And I do sympathize with your situation, my son and his wife lost their home to foreclosure and I have a sister-in-law who is fighting it in the City of Minneapolis right now. The Occupy people are helping her. I understand your plight and the fight and I know what the banks do. But my issue is I wouldn't have known about this until my son called me, he saw it in the Minneapolis paper. I mentioned that I pay taxes. I don't know if you are paying taxes, but I know that in your position you are making decisions about my property taxes. And, I think that is an issue for all of us here. That same son and daughter-in-law tried to live in an RV and they made it one night and they had done a lot of work on it. So, I can appreciate that is not an option in Minnesota even under the best of circumstances. But, the taxes issue is. Part of the reason I am here tonight is my property was affected by the

high voltage power lines. And, the change that the Planning Commission made in that route. It seemed very arbitrary and I want to make sure this is done on fact and law.”

Lawrence, “As far as paying taxes, I will be pay rent to this place, which pays City taxes. Although Bob DeRoche does not pay taxes. At all.” DeRoche, “Would you like to elaborate on that Richard? Because this has been brought up before.” Lawrence, “Go ahead and explain it. It’s legit.” DeRoche, “I will explain it. In 2008 the Governor of Minnesota signed a bill that if you are a 100% disabled veteran a certain amount of housing, or house payment or what the value of it is would be waived. And this is the second time now that as a veteran I am being attacked. And, I have no qualms about that. Because in the letter it says, “This is the least that the State of Minnesota can do for you.” Richard, did you serve?” Lawrence, “Nope, I didn’t serve. However, I do support the troops that I know of and I do a lot of support work for the troops. And, I am not saying you are not deserving of it, I am just saying this lady is talking about paying taxes.” Ronning, “You are talking apples to oranges. Bob is a military veteran with service related conditions and you are not in the military, you don’t have that restriction, you don’t have that opportunity. There is no comparison to what you are talking about and his. None.” Lawrence, “I am still paying taxes through my rent.” Moegerle, “The question that came up while you were talking was to choice of housing. Were you limited in your housing choices because of pet ownership?” Lawrence, “Well that is an issue.” Moegerle, “Did that make it more difficult?” Lawrence, “It is more difficult. But, the real issue is stairs and such as that.” Ronning, “I don’t see anything about pets in the law.” Moegerle, “It is about available housing. Health conditions and pets, some things they can’t rent because of other reasons and I want to look at those issues too.” **DeRoche called the question. Ronning seconded.** DeRoche asked for a roll call. **The vote is to call the question. DeRoche, aye; Koller, aye; Moegerle, aye; Ronning, aye; Lawrence, abstained; motion carries.**

**The vote is to declare the seat of the Mayor vacant. Roll Call vote. DeRoche, aye; Koller, aye; Moegerle, nay; Ronning, aye; motion carries.** Moegerle, “A vacancy has been declared”

**DeRoche made a motion to amend the agenda to add 6.0 A Fill the Vacant Mayor’s Seat. Koller seconded. DeRoche, Koller and Ronning, aye; Moegerle, nay; motion carries.**

Public  
Hearing for  
Liquor  
License –  
Route 65  
Discount  
Liquors

Davis explained that staff is recommending that Council conduct a public hearing to take comments from the public regarding an Off Sale Liquor License for Slaw Industries Inc. dba: Route 65 Discount Liquors located at 18453 Highway 65 NE, East Bethel, MN 55011 as required by East Bethel City Code, Article III, Intoxicating Liquors, Section 6-55. This notice was also published in the Anoka County Union.

The process should be that the Acting Mayor opens the Public Hearing and invites members of the audience to step forward and provide comments.

Moegerle opened the public hearing for Route 65 Discount Liquor.

Brad Slawson of Route 65 Discount Liquors, “I am here to ask approval to open a liquor store at 18453 Highway 65 NE. I own the restaurant/bar two doors down and I think it is a good fit for the community, and I am looking forward to a yes vote tonight.” Moegerle, “Does East Bethel have a limit on liquor licenses?” Vierling, “All City’s do.” Moegerle, “How many would we have at this point?” Vierling, “It is on-sale only.” DeRoche, “That is

the old Black Bear building, correct?” Slawson, “Yes, it has been closed for about seven months.” Moegerle, “On your application, in our packet under number 4, name and owner of building you list a Mr. Osborne. I found that it is in fact owned by Osborne Development, Inc. Is this a distinction that should be so listed?” Vierling, “The application is not jurisdictional. It can be modified at any time. I assume you are renting?” Slawson, “That is correct.” Vierling, “Actually, I am sure Council person Moegerle check the county website. And, the Anoka County website is only updated once a year. So, it is not inline with the recorder’s office which is the official record of ownership anyways. I am sure the applicant filled this out the best knew how and that is fine.” Moegerle closed the public hearing.

**DeRoche made a motion to approve the Off-Sale Liquor License for Slaw Industries, Inc., dba: Route 65 Discount Liquors at 18453 Highway 65 NE, East Bethel, MN 55011 contingent on a certificate of liquor liability be provided and approval of the State Commissioner of Public Safety. Koller seconded; all in favor, motion carries.**

Mayor’s Seat

DeRoche, “There has been a vacancy created in the Mayors spot. By law the Council can fill that spot.”

**Ronning made a motion to appoint Robert DeRoche Jr. to the position of Mayor for the City of East Bethel for the remainder of term, until December 31, 2014. Koller seconded.**

Moegerle, “I think what has happened here tonight needs more consideration. While this whole thing has been driven in this direction that Mr. DeRoche be Mayor, (the writing has been on the wall for three weeks now), I do think we need to work at a considered pace. I think moving too abruptly is not in the best interest of the City.” Moegerle called the question.

DeRoche, “I would like to make a couple comments. To make the accusation (I will deal with that at another time) but that I have spearheaded this, it started out with a simple question and blossomed into this. I made the attempt to not talk to anyone. For the last three weeks I haven’t slept for crap. I have a knot in my stomach. This is not something I take lightly. I know some people think I don’t have any intellectual integrity. I know some people think I am a naysayer and don’t want to see the City succeed. But, anyone that watches the meetings and read the article in the Minneapolis paper, that was probably the biggest response I got. For me to be accused of abusing other Council Members and throwing insults at them and that is why the City hasn’t gotten anything done? I find that real slanderous. Because people that have known me know that is not my cup of tea. I am a straightforward person.”

“I have had people question my VA Disability, thinking it is not real. Anyone that has had to deal with the VA would understand that to get the rating I have got you just don’t get it. There is physical things going on, and I am not going to go into it. I think we have to move forward. Did I start out on this four year venture to be Mayor, no I didn’t. I will take it and go with it. I don’t think Tom and Ron feel good about what we had to do tonight. I wish People would get all the facts together and understand everything that is behind this and has gone on, before they pass judgment on anybody. Because as long as I can get up in the morning and look in the mirror and say, “You know what, I didn’t try and goof anyone over, I didn’t lie to anyone.. This is the way it is shaking out and that is the way it is.” Ronning, “As far as one person stopping progress, there is no one person that can overrule votes, there

are four votes. And, everybody has one vote, so it is not possible.”

Davis, “Mr. Vierling, before this is voted on, procedurally do we have to declare a vacancy by ordinance?” Vierling, “No, you do not.”

**Moegerle asked for a Roll Call vote. DeRoche, aye; Koller, aye; Moegerle, nay; Ronning, aye; motion carries.** Moegerle, “Mr. DeRoche is now the Mayor, please take your seat.” DeRoche, “This seat is fine for this evening and I don’t need the gavel, do I?”

DeRoche, “Moving on to 6.0 B, to declare my City Council seat vacant and I am not sure of the procedure to fill it?” Moegerle, “You haven’t amended the agenda to add 6.0 B.” DeRoche, “Yes I did, 6.0 A & B.” Moegerle, “I only heard A.” DeRoche, “I will do it again.” **DeRoche amended the agenda to add 6.0 B Declare the Vacancy in the City Council Seat. Koller seconded. DeRoche, aye; Koller, aye; Moegerle, nay; Ronning, aye; motion carries.**

DeRoche, “I am not sure how do we fill this?” Vierling, “It is available to fill at your request. Some communities go through a process, in terms of seeking applications of interested persons and that nature. But it is certainly up to the Council in terms of how you want to fill it. In terms of both positions, in regards to the Mayoral position and this position, since they are within one year of the election for terms, they will be subject to the November election, 2014.” Davis, “The procedure in the past has been to solicit applications for the vacant position and interview the candidates and appoint a person to the open position.” DeRoche, “With Council’s blessing I direct staff to post it.” Vierling, “You amended the agenda, but, did you declare it?” **DeRoche made a motion to declare a vacancy in my City Council Seat. Koller seconded. DeRoche, aye; Koller, aye; and Ronning, aye; Moegerle, nay; motion carries.**

Vierling, “With that declared, if you want to go ahead and direct staff to solicit applications.” DeRoche, “With the rest of the Council’s blessings, I would like to direct staff to solicit applications from interested parties to fill the Council seat? Is there a time limit we should put on it? Two weeks or 30 days?” Moegerle, “I would say 30 days because we had postings for the commission openings and the only people that applied were the existing and standing. So, I think we should make sure we get a good response from the community and make them fully aware of what is going on and research whether they want to be up here. So, I would suggest 30 days.” Ronning, “What would 30 days before, besides four weeks and two days?” Moegerle, “We could fill it February 5<sup>th</sup> that is less than 30 days. Next one would be the 19<sup>th</sup>.”

DeRoche, “What is the thoughts of the staff?” Davis, “Either one is fine, I think we should act as soon as possible, but give an appropriate response time. I think February 5<sup>th</sup> or the 19<sup>th</sup> would be okay. The 5<sup>th</sup> might be too early and we might not be able to get enough information and have enough time to respond.”

Vierling, “If you want to think about this, you may want to suggest a cut of date a week before that time because you might want to have a workshop to review the applications and interview.” Moegerle, “The other thing is the League of Minnesota Cities has a training and the cut of date for that is the end of January, beginning of February. Certainly I think whoever gets appointed needs to go to that League training and the Mayor needs to go to the Mayor’s training for newly appointed also.” Vierling, “Regardless, you should set a cutoff date, I am going to suggest the 12<sup>th</sup> of February. If they can’t go to the training, we can

work with them and give them any training or assistance and whatever they need.” DeRoche, “Can anybody get the dates from their City e-mail?” Moegerle, “I have been locked out for three weeks.” Ronning, “Talking about agendas, what the last lady said sounded like a pretty good agenda filler. However it could fit.” Moegerle, “We are trying to trying to find out the dates for training for these people.” DeRoche, “Newly Elected Officials Conference, January 31 to February 1<sup>st</sup> in Brooklyn Center.” Moegerle, “There is no way we can do that. We don’t even know if they will be available. I don’t think it is a factor anymore.” DeRoche, “We can always give them our book.” Ronning, “I got as much out of the question and answer stuff myself.” Moegerle, “Do you have the direction you need?” Davis, “Yes.” DeRoche, “Why can’t we do it on the 5<sup>th</sup>? We will have to call a special meeting anyways.” Moegerle, “I like the 12<sup>th</sup> for the cutoff.” Davis, “Either date is fine, it is your preference.” DeRoche, “Okay, we will take the later date.”

Appointment  
to  
Commissions

Davis, “The Parks, Planning and Roads Commissions are each composed of seven citizen members appointed by City Council for three year terms. The members of these Commissions, whose terms which are set to expire on January 31, 2014, are as follows:

Parks Commission

- Tim Hoffman
- Sue Jefferson
- Denise Lachinski

Planning Commission

- Tanner Balfany
- Brian Mundle

Roads Commission

- Kathy Paavola
- Al Thunberg

These positions were advertised on the City’s Website, Cable Community Channel and Reader Board as well as noticed at the November 21, 2013 Town Hall meeting for new applicants. Applications for the positions closed on January 2, 2014 at 2:00 PM as advertised. An application for the Parks Commission was deposited at City Hall at approximately 4:30 PM on January 2, 2014 by Mr. David Behm. The application was past the deadline and Staff is recommending that the application not be considered at this time. Mr. Behm’s application will be held on file in the event that Parks or other Commission openings become available.

All of the above members, whose terms are set to expire on January 31, 2014, have requested to be re-appointed and were interviewed for these positions in 2011.

Staff recommends Council consider the re-appointment of Sue Jefferson, Tim Hoffman and Denise Lachinski to the Parks Commission; Tanner Balfany and Brian Mundle to the Planning Commission; and Al Thunberg and Kathy Paavola to the Roads Commission for three year terms to expire on January 31, 2017.

**Moegerle made a motion to table the Park Commission Appointments** for the following reasons. I have been on the Park Commission and I like everyone there. But each one of those Park Commission letters have the same date, have the same verbiage and I have reason

to believe on historical precedent that these letters were prepared for the signatures of these people by staff. If there had not been a fourth person that had applied who did not get an application prepared for them then I would not make this motion. But, the fact is, these letters are identical except for their address and I think it does a disservice for Mr. David Behm who prepared his own application. For the purpose of being open and fair to everyone, yes, it was late, but it was on the exact same date. But, he did not have the benefit of having a letter prepared for him. I think the benefit of the doubt should be extended to him and he should be interviewed.” DeRoche, “Can you back up those allegations?” Ronning, “We are waiting on a second.” Moegerle, “I have attended meetings where they have said, “We will just prepare that letter for you to sign for your application.”

Davis, “Ms. Moegerle is correct, staff did prepare those as a courtesy for those members. It is a precedent that has been done for a number of years and those letters were provided to those people in the event they wished to be reconsidered for reappointment.” Moegerle, “I think it is wonderful that it is a courtesy. But, it is not a courtesy to anyone else on the other commissions. Those people had to write their own letters. Or they amended their letters a little bit. Mr. David Behm didn’t have that courtesy, we don’t have a form that he could just jot his name down and I think to avoid the appearance of cronyism we should postpone the Park Commission Appointments.” Ronning, “Point of Order. There is no second, I don’t know why we are having discussion.” DeRoche, “Is there a second? Hearing none, the **motion fails.**”

**Ronning made a motion to appoint Sue Jefferson, Tim Hoffman and Denise Lachinski to the Parks Commission; Tanner Balfany and Brian Mundle to the Planning Commission; and Al Thunberg and Kathy Paavola to the Roads Commission for three year terms to expire on January 31, 2017. Koller seconded. DeRoche, aye; Koller, aye; Moegerle, nay; Ronning, aye; motion carries.**

Moegerle, “Congratulations and welcome aboard again.”

Consent  
Agenda

DeRoche, “I have some basic corrections to the minutes. I want to pull Item C) Meeting Minutes, December 18, 2013, Regular Meeting.” Moegerle, “I want to pull Item B) Meeting Minutes, December 4, 2013, Regular Meeting.”

**Ronning made a motion to approve the Consent Agenda including: A) Approve Bill; B) ~~Meeting Minutes, December 4, 2013, Regular Meeting;~~ C) ~~Meeting Minutes, December 18, 2014, Regular Meeting;~~ D) Resolution 2014-01 Designation of Official Newspaper; E) Pay Estimate No. 4 for Castle Towers/Whispering Aspen 2013 Forcemain Project; F) Approve Tobacco License for Route 65 Discount Liquor; G) Approve Optional 2AM Liquor License Renewal for Route 65 Pub & Grub; H) Renew Animal Control Contract, and the Supplemental Bill List. Koller seconded; all in favor, motion carries.**

Moegerle, “I pulled Item B. I have taken time to compare our minutes with other minutes and things we have discussed before. This is a question for staff, there seems to be disparity with what staff prepares on their behalf and what they prepare for Council as far as quality and spell checking and I was wondering if you could explain that to me? Because this has been an issue I have had for more than two years, so I am trying to understand why that is?” Davis, “In comparison to what?” Moegerle, “For the write-ups that we get for our packets, they are full sentences, the punctuation is there, spelling is there. And so with regard to our minutes, they are not the same quality and I am wondering why there is that disparity?” Ronning, “I would encourage we have this conversation offline and make the corrections.”

Moegerle, "I am not making any corrections." Ronning, "No what you are doing is a semi-performance review. You could be creating a hostile environment and I don't want to be part of it." Moegerle, "And I didn't want to be a part of what happened earlier."

DeRoche, "Excuse me folks. One thing that has happened in the past that we are not going to get into is we are not going to be knocking down staff. We are not going to be doing employee reviews. We are not going to be knocking down contractors when we are in the meetings. It has been brought up before that if there are corrections or suggestions that they be brought up to staff before the meeting. And that is something we need to do, because I don't think it puts us in a very good light here." Moegerle, "That is not my question. My question is why is that a difference?" Davis, "The answer to that is the minutes are totally distinct and different. Sometimes things are said in complete sentences. I think that Wendy does a tremendous job in preparing these. And if you go back and compare it to the DVDs, I think you will find a great deal of accuracy in those. A write-up is something that takes a written description and sets out facts. What she is doing is taking what is stated here in the meeting and putting it down on paper. Again, it is two totally different things when you have time to think and write things out. And I think she reflects those very accurately."

Moegerle, "And, I have said before, for the person that does the transcription, it is very difficult for them to proofread their own documents. I give Wendy kudos for what we get down. But we have persistent errors. But, when I look at our neighboring cities, they don't seem to have those kinds of issues." Davis, "They don't do minutes generally like we do them either. They copy and paste things and then put down what the vote was and they may put down two or three comments that are made. But, they don't put down exact quotes in the ones I have seen. I think there is a huge difference in the way we take minutes and other cities do and to try to compare the two is very difficult." DeRoche, "Is there a motion?" Moegerle, "No and I am not going to make a motion."

**DeRoche made a motion to approve Item B) December 4, 2013 City Council Minutes as written. Koller seconded. Moegerle, nay; DeRoche, Koller and Ronning, aye; motion carries.**

DeRoche, "I asked to remove the December 18, 2013 minutes because on the last page, the motions, the one that deals with declaring the vacancy of the Mayor's position. The third paragraph, votes need to be reversed, DeRoche and Ronning voted for that and Koller and Moegerle voted against. **DeRoche made a motion to approve Item C) December 18, 2013 City Council minutes as amended. Koller seconded. Moegerle, nay; DeRoche, Koller and Ronning, aye; motion carries.**

Ordinance 48,  
Second Series

Davis explained that on September 25, 2013 City Council adopted Ordinance 46, Second Series amending the Zoning Code relating to accessory structures. Council also directed staff to have Planning Commission look at some additional items in the zoning code relating to Section 14. Detached Accessory Structures.

Planning Commission discussed this item at their October 22, 2013 meeting and Brian Mundle made a motion to approve the changes as follows to the Zoning Code Section 14: 2A, add back in "without prior approval of the City Council", 2.J add Fish Houses under the definition of Temporary Structures, 2.E define Pole-Type, 2.L include language that states stairs should be located in a side or rear yard, and 4.A remove R2 from the table with 12 foot sidewalls. Cornicelli seconded; all in favor, motion carries.

A public hearing was held at the November 26, 2013 Planning Commission meeting for the Zoning Code changes and the motion that was made at the October 22, 2013 Planning Commission meeting was reaffirmed.

Staff is recommending that Council consider the approval of Ordinance 48, Second Series, Amending Appendix A, Zoning, Section 1, General Provisions of Administration and Section 14. Detached Accessory Structures and direction to publish.

**DeRoche made a motion to table Ordinance 48, Second Series, Amending Appendix A, Zoning, Section 1, General Provisions of Administration and Section 14. Detached Accessory Structures.** Because there are some specifications on height of buildings under an acre, 10 feet and it was my understanding it was going to be 12 feet. And the concern is if there is a 12 foot door. **Ronning seconded; all in favor, motion carries.**

2014 Fee  
Schedule

Davis explained that at the December 18, 2013 meeting, Council approved the 2014 Fee Schedule and directed Staff to prepare this in the form of an Ordinance with directions to publish. This has been completed and the Fee Schedule is effective as of January 3, 2014.

There was discussion concerning a two tiered system of Building Inspection Fees with one for residential and one for commercial. Staff had discussed presenting this in the form of an itemized alternative to Council but instead of listing separate commercial fees, the calculation of Building Permit Fees is proposed to be based on valuation per the 1997 Uniform Building Code (UBC), Table 1-A-Building Permit Fees, unless otherwise specified in the fee schedule.

This creates the two tiered system for fees and bases uniform rates on charges established by the UBC which are based on valuation of the improvements. This schedule is incorporated in the Minnesota State Building Code and is consistent and utilized by most Cities in the Metro Area including Ham Lake, Oak Grove, Columbus, Isanti and Cambridge.

Licenses and fees income represent approximately 1% of the total General Fund Budget exclusive of Building Permit Fees.

Staff recommends adoption of Table 1-A, Building Permit Fees, 1997 Uniform Building Code and changes as noted as the fee schedule for all Building Inspection and Permit Fees unless otherwise specified in the Fee Schedule.

**Koller made a motion to approve the amended building permit fees as presented. Moegerle seconded.**

Moegerle, "At the top of the page I see where it is calculated based on valuation based on the 1997 Uniform Building Code. From a legal standpoint do we have in there, "As amended from time to time." Vierling, "That table hasn't been amended since 1997 and we don't see any opportunity for that soon." Moegerle, "Building Moving Fee, my understanding is we had two buildings moved into East Bethel last year. By removing that does it make it under the 1997 UBC?" Davis, "It will be based on valuation." Moegerle, "I noticed that you changed the name of "Certificate of Compliance" for a fence permit to just "Fence Permit". Does that mean once a fence is installed there is no compliance check on that?" Davis, "There is a final inspection on it." Moegerle, "I thought this was difficult to read, and when I read some of the others when it was divided up into three columns it was clearer. Particularly when it came to transformers and some of those. The reason I say that

is if it is clearer, you have less staff time. And, I don't know if that is something that could be done." Davis, "I agree. There are better tabular means to display this and that is something we will work on, to present it in a better form." Moegerle, "Special inspections hourly rate. Is that also specified by 1997 table?" Davis, "That is what our current costs are.."

DeRoche, "One clarification on the fence, does that mean any fence? If my neighbor puts up a 2 foot fence? That is pretty steep if someone is just putting up a little 10 foot picket fence along their yard. That is my own personal thoughts." Koller, "They probably won't get a permit." DeRoche, "That is probably what is going to happen. And, if you put up a six foot fence around your property I believe our ordinance reads you have to put it three feet on your property to allow for maintenance and the good side has to be facing out. So that may be a fee, but this says if you just have a little garden fence, or even if you put up a fence around your garden to keep the rabbits out. Because it is not really defined in here." Davis, "We can clarify that more, but to my knowledge no one has ever come in for a permit for that type of fence. That could create an issue, someone could be driving around and say, "There is a fence." Moegerle, "Remember, we are a City that only enforces things through complaints." **All in favor, motion carries.**

Commission/  
Committee  
Assignments  
for 2014

Davis explained attached is a spreadsheet with the Commission/Committee assignments for 2010-2013. The following are the Commission, Authority, Committee and appointed positions for consideration. I think there was concern from some of the Council Members that if there were some change here tonight that we might want to give this some more time."

**DeRoche made a motion to table the Commission/Committee assignments for 2014 until the next Council meeting. Moegerle seconded.** DeRoche, "I do want to name the Mayor Pro-tem tonight." Moegerle, "That can wait until the next meeting. You aren't going anywhere and Mr. Ronning will be here next meeting."

**DeRoche made a motion to table the Commission/Committee assignments for 2014 other than the Mayor Pro-tem. Koller seconded. Moegerle, nay; DeRoche, Koller and Ronning, aye; motion carries. .**

**DeRoche made a motion to appoint Tom Ronning as the Mayor pro-tem. Koller seconded. Ronning made an amendment to the motion to table the appointment to the next meeting.** Moegerle, "Isn't it technically Acting Mayor, instead of Pro-tem? I am pretty sure that is what our ordinances say." Vierling, "They are one in the same." **Koller seconded; all in favor, motion carries.**

MCES  
Agenda

Davis explained that as part of the plan to address the City's financial obligations for the Municipal Utilities Project, a meeting with Pat Born, MET Council Regional Administrator, and Jason Willet, Financial Manager with the Metropolitan Council Environmental Services (MCES) has been scheduled for 11:00 AM on January 10, 2013 at the MET Council Office in St. Paul. The purpose of the meeting will be to determine the interest and desire of the MCES to explore ways to address our financial obligations to and the Cooperative Construction Agreement with the MET Council. The topics which the City is proposing for discussion are as follows:

1. Restructuring the document to adjust the dates that have been changed due to project delays;
2. Language revisions as appropriate;

3. SAC rates and minimum flow charges;
4. Reserve Capacity Loan;
5. Developing Community Standard;
6. Transfer of MCES infrastructure; and
7. Growth Forecast Clause.

Jack Davis and Mike Jeziorski will represent Staff at this meeting. It is Staff's recommendation that Council be represented by no more than two Councilpersons and preferably one. Council should designate the representative(s) at our January 8, 2014 meeting. Should more than two members of Council wish to attend, Staff need notification no later than Monday, January 6, 2014 so we can post this as a meeting.

Davis, "I received no additional notification from Council Members on attending this meeting." Moegerle, "Actually, my schedule has opened up." Davis, "And with the change of Mr. Lawrence tonight, we need to decide who is going to go and how many."

**DeRoche made a motion that Tom Ronning, himself and Jack Davis and Mike Jeziorski go to the meeting at Met Council. Koller seconded.** Moegerle, "Is Pat Born going to be in attendance?" Davis, "Yes." Moegerle, "Based upon his attendance, and my past relationship with him, I think it would be beneficial to trade upon that experience. And I make myself available to be there on Friday at 11:00." **Moegerle, nay; DeRoche, Koller, and Ronning, aye; motion carries.**

Moegerle, "Are we going to have any discussion about this agenda?" Davis, "We can do that here." Moegerle, "My concern is about the Rural Growth Center and what the plan is for East Bethel internally, but also in regard to Met Council and in paragraph 5 they talk about Oak Grove and other communities hooking up to this. Seems we need to get information about what other communities are saying and what populations are." Davis, "The three reasons we are calling this meeting is because the Met Council's population projections make it impossible for us to meet the defined SAC Goals that are required for this. The other issue is the new policy of transportation orientated design is going to start refocusing resources and growth initiatives to the center city which will take away those opportunities from East Bethel. And also the fact that this is a demonstration project and benefits from this project will not really be shared by the City, but will benefit the Met Council directly and therefore we should be given some additional considerations as to what our obligations are on the project. That is the premise to the meeting."

DeRoche, "It is my understanding that the meeting is going to be a touch and base. They made statements that everyone wants to work with us. Go in there with an open mind and ask questions and see what ground we are on. Has to be a fact finding mission. And to try to go in there and get all the information and pin them against the wall would be a mistake." Moegerle, "I don't think anyone suggested that. But, I would like to know if staff thinks that membership in Metro Cities would be a benefit to us. Put that in the update after the meeting, I would like staff's opinion on whether that should be our approach to Met Council." DeRoche, "I think that should come from the entire Council, if there is going to be direction." Moegerle, "I am asking for one sentence. More information is power." Ronning, "If there is a staff recommendation or request for Metro Cities, I would like a finite definition of what their work structure is, authority is, are they autonomous, are they elected to something or the other." Moegerle, "Metro Cities made a presentation to us." Ronning, "Those seem like reasonable things to ask when it is \$4,500 the first year and then it goes up to \$7,000+ the second year. And I would like to know what they would do." DeRoche, "I

didn't know we decided to go with Metro Cities." Ronning, "I don't believe we have."

- Staff Reports Davis, "We don't have anything to report at this time."
- Council Reports – Moegerle Moegerle, "It has been real quite. At the last Council meeting my computer crashed, so I haven't gotten e-mails for the last three weeks. So it has been a blessedly quite time. Very cold and snowy, still having a hard time getting up the hill by our house, but, it is going to melt on Friday."
- Council Report – Ronning Ronning, "When do we get to Indian summer. I wasn't able to get to the Planning Commission meeting and they made a recommendation this evening and everything was as recommended, I believe."
- Council Report – Koller Koller, "I didn't make it to the Fire Department because it was too cold. I had the Upper Rum River Watershed Management Organization meeting yesterday and we approved the new contract with Anoka Conservation District. And, I have the Sunrise River Watershed Management Organization meeting tomorrow and we have to approve the contract with Anoka Conservation District."
- Mayor's Report – DeRoche DeRoche, "I personally don't think the roads on Coon Lake are too bad. To get rid of the ice we would have to put so much chemicals down it would ruin the new roads. I think the crews did a bang up job down there. I don't think people realize that when we get those little ice bursts like Saturday, it is kind of hard to plow it down to the bare streets. I am not a plow driver, but I know what it is like to scrape the ice off a driveway."
- "As to the people of East Bethel, know that we are going to make strides forward, we have to. I think our meetings need to be more matter of fact. We get the agenda packets soon enough that everyone has time to read it. Whether it is online or paper it shouldn't matter. And if there are corrections to be made, they can be directed to staff, instead of doing it up here. And when we get to the meeting it shouldn't be these long drawn out conversations. I understand the emotion thing, I get caught up in it, and everyone does. But it has to be these are the facts, all five of us have a vote, and hopefully when you vote, you vote what is on your mind. You take your common sense, take your life experiences, and take what staff has put together and make the best decision you think. As long as you can say you did the best you could, I don't know what more people can ask. It is unfortunate that some people think I stuck a bull's-eye on Richard. That was not my intent ever. That is not my game." Ronning, "That was his comment, Richards." DeRoche, "So be it, I will take the grief for it. So be it. I don't regret it. I have no comments other than that, but, we need to move ahead."
- Adjourn **Moegerle made a motion to adjourn at 9:42 p.m. Koller seconded; all in favor, motion carries.**

Attest:

Wendy Warren  
Deputy City Clerk